A Collection OF Such of the ORDERS heretofore uſed in CHANCERY.

With ſuch Alterations and Additions thereunto, as

MICHAEL.

Lord Arch-biſhop of *Dublin*, Lord Chancellour of *IRELAND*.

Hath thought fit at preſent to ordain and publiſh,

For

Reforming of ſeveral Abuſes in the ſaid Court; preventing Multiplicity of Suites, Motions, and unneceſſary charges to the Suiters and for their more Expeditious and certain courſe for Relief.

Dublin, *Printed* by *John Crooke*, *Printer* to the Kings Moſt Excellent Majeſty, and are to be ſold by *Sam. Dancer* in *Caſtle-ſtreet*.

SUB CRUCE CANTO

S.r John Percivale Baronet, of Burton in the County of Cork in Ireland.

1702

NATIONAL LIBRARY OF IRELAND
GIFT OF E.R. McCLINTOCK DIX.

Dubl. n.d. 4

A COLLECTION OF Orders TO BE USED IN CHANCERY.

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I. THat no Subpæna be made returnable immediate, unleſs the party againſt whom it is to iſſue, be at the time of the Service thereof, in the City or Suburbs of *Dublin*; or within ten miles diſtant from the ſame, and that no Subpæna to anſwer be made returnable in the Vacation time, but within fifteen daies before or after the Term.

II. That the clerk of the Hannaper, take care that all writs and what elſe ſhall paſs the Seal, be fairly entered in a Book, to be kept in that Office for publique uſe, and in regard the iſſuing of all writs that are grounded upon Engliſh bills or proceedings thereupon, properly belong to the ſix Clerks, they are likewiſe to keep an exact entery of all ſuch writs as they ſhall iſſue, to the end they may give the Court an accompt of the ſame when they ſhall be thereunto required.

III. That every Subpæna be ſerved perſonally, or the ſame (or a Copy thereof after ſhewing the ſaid writ) left at the Defendants uſual place of reſidence, with one of the Family, to be given the Defendant, unleſs it be for payment of money, (in which caſe a perſonal ſervice is requiſite) But where the Defendant is out of the Land, or cannot be found, and yet proſecuts a Suit at Law, or in this Court for releif againſt which ſuite the Bill is exhibited, upon Affidavit made that he is out of the Land, or cannot be found, the Court doth uſually Order the Subpæna to be left with his Atturney at Law, for in this Court as the caſe requires, and that to be a good ſervice.

IV. That upon taking out the Subpæna to anſwer, or at fartheſt, before the return thereof,

thereof, the Bill be filed, and in caſe of a Subpæna returnable immediate the, Bill is to be filed before the writ be ſerved, and that on penalty of good Coſts; and that no Subpæna *Duceſ-tecum* iſſue without Order made in open Court.

That no Attachment (for not appearing on a Subpæna) do iſſue out but on Affidavit firſt made, and filed of the time and place of the ſervice of the ſaid Subpæna, and of the return thereof, whereby it may appear that ſuch ſervice was made two daies at leaſt before the return thereof, if the ſervice were in *Dublin*, or within twenty miles thereof, and that ſuch ſervice was made four daies at leaſt (excluding the day of ſuch ſervice) before the return thereof, if the ſervice was made above twenty miles diſtant from *Dublin*, and if the Defendant do not appear, and anſwer within eight daies after the return of the Subpæna, then and not before, the Attachment is to iſſue, and in caſe of a Subpæna returnable immediate, there no Attachment for not appearing and anſwering is to iſſue, unleſs upon the like Affidavit, and its appearing thereby that the writ was ſerved at leaſt ſix daies before (Excluding the day of ſuch ſervice) and the Attachment in the Caſes aforeſaid may be iſſued of courſe, and V.

the Regiſter is not to hinder them without ſpeciall direction of the Court.

VI. That in caſe of Attachments ſo iſſuing as aforeſaid, the ſame are not to be diſcharged but on payment of ten ſhillings coſt, if the Subpæna was Perſonally ſerved, and five ſhillings coſts, if otherwiſe, beſides the uſual coſts of the Attachment.

VII. The Council is to be careful, That Bills, Anſwers, Exceptions, Interrogatories and other Pleadings do not contain needleſs repetition of Deeds, Writings or Records *in hæc verba*, but onely the effect aud ſubſtance thereof, and that which is Pertinent and Material to be ſet down, and that all Pleadings be ſigned by Council allowed to practice, with his own hand, being firſt peruſed by him in the Paper draught, before it be Ingroſſed, and the ſaid Pleadings are to be fairly Ingroſſed without Raiſures, Blottings or Interliniations, and to be ſigned by the ſix Clerk towards the Cauſe.

VIII. That if any Pleading ſhall be found to contain any matter meerly Scandalous, both the parties and Council on whoſe ſide and under whoſe hand it paſſeth, ſhall pay good coſts to the party Injured, and ſuch Council ſhall receive the reproof of the Court, and the Crime will be adjudged

more

more groſs, if it ſhall appear that ſuch pleadings paſſed his hand without a deliberate peruſal.

That after the Defendant hath ſworn his anſwer, it ſhall not be redelivered unto him, but to his Atturney, who is to take care the ſame be forthwith entered and filed. IX.

That in caſe a Plantiff or Defendant die, depending a ſuit, Subpænas and Bills of revival be of courſe taken out and Exhibited, which being done after ſervice and return of the Proceſs, all the proceedings in the former ſuit ſhall ſtand revived, and the parties may thereupon proceed accordingly X.

That an anſwer to the matter charged, as the Defendants own fact, ought regularly to be poſitive without ſaying it is to his remembrance, or as he believeth, if it be laid to be done within ſeven years before; unleſs the Court upon Exception taken, ſhall find ſpecial cauſe to diſpence with ſo poſitive an anſwer; and if the Defendant confeſs not the fact, he muſt deny it directly and poſitively, and not by way of Negative pregnant, and if a fact be laid with circumſtances, the Defendant muſt not anſwer it Literally onely, as it is laid in the Bill, but muſt anſwer the point in ſubſtance poſitively and and certainly. XI.

XII. That if exceptions be taken to an answer, they are to be delivered the Defendants Atturney in Court the same Term the answer is filed, or within eight daies after that Term, or if the answer be filed in the Vacation; then within eight daies after the first General Seal after the filing thereof, and if the Defendant or his Atturney shall either satisfie the Plantiff of the Invalidity of the Exceptions, or put in a better answer, and pay twenty shillings costs, either within four daies after such delivery of the Exceptions, in case the same be delivered within the Term, or within four daies after the next General Seal, after the delivery thereof, in case the exceptions were delivered out of the Term, then the Plantiff may proceed if he see cause, no Reference being to be moved for within the time aforesaid, touching the insufficiency of the answer: but if the Defendant shall not satisfie the Plantiff as aforesaid, or that the answer he supposeth to be perfect be conceived insufficient, then the Plantiff may procure the same to be referred, but in case the answer be reported sufficient, the Plantiffe is of course to pay forty shillings costs to the Defendant, and if a second answer be returned insufficient, then three pounds, and upon the third four pounds, and upon

upon the fourth five pounds coſts, and then to be committed alſo till he be examined, and anſwer fully upon perſonal Interrogatories touching the points defective in his anſwer, and pay the coſts, and no new exceptions are to be inſiſted upon but what were put in to the firſt anſwer.

XIII. If on Reference to a Maſter, of Exceptions to a ſhort anſwer, the ſame be certified full and ſufficient, the plantiff is to pay the Defendant forty ſhillings coſts, within four daies after the Report filed, but if certified inſufficient, a Subpæna may be of courſe taken forth after five daies for a better anſwer, and the Subpæna is alſo to contain a clauſe for the forty ſhillings coſts, but if exceptions ſhall be in either caſe taken to the report of the Maſter, the ſame are to be filed within five daies after the report filed, and before they ſhall be received by the Regiſter, the former coſts are to be paid, and forty ſhillings depoſited by the Exceptant with the Regiſter; And if the Exceptions be ruled againſt the Exceptant, the forty ſhillings is to be delivered to the other party, but if ruled for the exceptant, then the money depoſited is to be redelivered to the Exceptant with forty ſhilling coſts from the other party, beſides the forty ſhil-

ſhillings to be repayed him, which was by him at firſt paid as coſts upon the Maſters Report.

XIV. That if a hearing be prayed upon bill and anſwer, the anſwer muſt be admitted to be true in all points, and no other evidence admitted unleſs it be matter of Record, to which the anſwer particularly refers and is provable by the Record; But in caſe the Court ſhall find no ground for giving a Decree thereon, the Bill is to be diſmiſſed with ſuch coſts as the Court ſhall ſee cauſe, or the Plantiff (if he deſire it) may be admitted to reply, he firſt paying the Defendant or his Clerk fifty ſhillings coſts; which if he pay not within four daies after the hearing then the diſmiſſion is to ſtand, and the Order is to be entred accordingly.

XV. That if in any cauſe the plantiff ſhall proceed to examine Witneſſes, and ſhall prove no more then what is confeſſed by anſwer, ſo that he might as well have gone to hearing on Bill and anſwer in that caſe, although he obtain a Decree, yet he ſhall pay the Defendant the coſts expended after his anſwer.

XVI. That if the Defendant live twenty miles from *Dublin* or upwards leaving notice with the Plantiffs Atturney, the ſaid Defen-

fendant may have an order of courſe, for a Commiſſion to anſwer the firſt time, the ſaid Commiſſion to be made returnable in thirty dayes after the return of the Subpæna, and directed to Commiſſioners nominated by the Atturneys, or in caſe the Plantiffs Atturney do not within two dayes after tender of the names of the Defendants Commiſſioners, joyn, then, to ſuch Commiſſioners as the Maſter of the Rowles ſhall nominate: but no anſwer is to be taken by Commiſſion after the firſt, or when the Defendant ſtands in contempt, without order of Court.

XVII. THat no Demurrer to the whole Bill, nor any Plea to the Juriſdiction of the Court, or indiſability of the perſon, ſhall be received by Commiſsion, nor any Plea or Demurrer at all admitted where the Defendant ſtands in contempt to a Commiſſion of Rebellion, without the ſpecial order of Court, and all Pleas, except of matter of Record, are to be Sworn.

XVIII. That in the concluſion of every Plea, not containing onely matter of Record or refering onely thereunto, there be an averment and as well Pleas as Demurrers, are to expreſs the ſeveral cauſes of ſuch plea or demurrer, and to demand the Judgement of the Court, and ſo to be entered with the Regiſter, and filed, and within ſix dayes after

ter, notice thereof is to be given the plantiffs Atturney, and the Defendant within that time is to procure the ſame to be ſet down to be heard, or in default of ſuch entry, filing notice, or procuring the ſame to be ſet down as aforeſaid, the ſame is to be diſallowed by an order of courſe (without motion) and the plantiff may then take out proceſs to inforce the Defendant to make anſwer over, and to pay forty ſhillings coſts, and in caſe the Defendant upon hearing of any ſuch plea or demurrer be over ruled, he is to pay forty ſhillings coſts, but if allowed, he is to have forty ſhillings coſts; And more then one plea or demurrer, is not to be put in to the ſame Bill.

XIX. And if all the cauſes of Demurrer expreſſed be diſallowed, and yet the Demurrer ſhall be allowed for ſome other cauſe not expreſſed in the Demurrer, in that caſe the Defendant ſhall nevertheleſs pay coſts.

XX. Replications are not to depart from the Bill, or contain new matter (except in avoydance of matter alleadged in the anſwer) but onely to affirm the Bill and Traverſe or deny, confeſs or avoyd the Defendants anſwer.

XXI. The Defendant being ſerved with a Subpæna to Rejoyn, *&c.* (and Affidavit made of the ſervice) is within four dayes next after

after the return thereof to enter and file his Rejoynder, and his Clerke is upon filing his anſwer, to have ready the names of four ſuch perſons as the Defendant ſhall think fit to joyn with the plaintiffs commiſſioners for examination of Witneſſes, and within the ſaid four dayes to tender the ſame to the plaintiffs clerk, who is alſo then to tender to the Deſendants Atturney the names of four other perſons for commiſsioners for the plaintiff. And if the Defendants ſaid clerk ſhall refuſe or delay (to the end of the ſaid Term) to joyn in commiſsion, the plaintiffs clerk may by order of courſe take out a commiſsion *ex part* to be directed to ſuch commiſsioners as the Court or the Maſter of the Rowles ſhall appoint, from and after which time the defendant ſhall be barred from having any commiſsion to examine his Witneſſes without ſpecial Order of Court.

When any Plantiff after the defendant hath fully anſwered his Bill, ſhall for two whole Terms after, forbear to file his Replication, he ſhall be diſmiſſed with coſts upon motion, and if the plantiffe after the defendant hath been at charge in taking out a certificate in order to a diſmiſs (meerly to prevent the ſame) ſhall put in a Replication, then the *Defendant may (if he will)* XXII.

there-

to forthwith Rejoyn gratis and move the Court to enforce the plaintiff to go to a commiſsion, or indefault thereof that the defendant may have a commiſsion *ex part* to ſuch commiſsioners as the Court or the Maſter of the Rowles ſhall appoint, or Examine his witneſſes in Court.

XXIII. When Witneſſes are to be examained, the council, who ſigns the Interrogatories is to take care that they be onely to points materiall and not leading, and the Examinator or commiſsioners (whoſe duty it is) are themſelves to Examine, and not truſt the ſame with inferior clerks, and to take care to keep the Witneſſes to the point Interrogated, not permitting them to run into extravagancies.

XXIV The ſix clerks are to take care that they give the clerke for the adverſe party in writing the names and dwelling places of ſuch Witneſſes, (and before which of the Examinators they intend to examine them) four dayes at the leaſt before they proceed to their Examinations, to the end the ſaid adverſe party may exhibit croſs Interrogatories to the ſaid Witneſſes, if he think fit, but in caſe the party to be examined be in danger of death upon affidavit thereof ſhorter notice may ſerve, and the Examinator is to take care, that he Examine no Wit-

Witneſſes before he be well ſatisfied ſuch notice be given.

That neither commiſsioners nor examinators of the Court do permit any Witneſſes to read over the Interrogatories, nor to ſuffer any Witneſſes to have the Interrogatories in his cuſtody before he be examined, or to pen his own depoſitions, or depart before he be fully examined; and the ſaid commiſsioners and examinators are to take care that each Witneſs ſubſcribe his own depoſitions, after which no alteration is to be made thereof without order of the Court, and the ſaid commiſsioners are to take care that neither they nor their clerks make any diſcovery of any matter depoſed before them, till Publication be had in the cauſe by order of Court therein, and the commiſsioners are to ſet down the examination of every witneſs at large without referring the Teſtimony of one to another, and the examinators are to be carefull that no Impertinencies or idle repetitions be ſet down, nor is any anſwer to be ſet down otherwiſe to ſuch Interrogatory to which the deportnant cannot at all depoſe then thus, *Viz.* To ſuch an interogatory he cannot depoſe. XXV.

The examiners are to take care that they imploy under them in their Office none but XXVI.

per-

persons of known integrity and ability, who shall take an Oath not to deliver or make known directly or indirectly to the adverse party or any other (save the Deponent who comes to be Examined) any of the Interrogatories delivered to be examined upon any Examination by him taken or remaining in the Examinators Office, or breviate thereof before publication be thereof past, and copys thereof taken; and if any such Deputy, clerke or person so imployed shall be found faulty in the premisses, he shall be expulsed the Office, and the examinator who so imployed him shall be also answerable to the Court for such misdemeanors, and to the party grieved for his costs and damages Sustained thereby, and such Sollicitor or other person who shall be discovered to have had a hand therein, shall be lyable to such censure for the offence as the Court shall find just to inflict upon him.

XXVII. The councill and fix clerkes are to take care that they exhibit not any Interrogatories to invalidate the credit of any witness except by Order of the Court; which will very sparingly be granted, and never but where exceptions unto such witnesses are first put in writing and filed with the Examinator, and notice thereof given to the adverse party or his Atturney.

That

That no new Interrogatories be admitted to Examine any witneſſes after the ſame witneſſes have been once examined upon Interrogatories entered in Court for the ſame party in the ſame cauſe; neither are any witneſſes at any time (without order of the Court) to be examined in any cauſe after an order for publication paſt, and a copy thereof ſent to any of the Examinators, although the witneſs be ſworn before ſuch orders delivered, neither will any Depoſitions taken by any Examinator (for want of ſuch notice) after publication, be made uſe of, upon the hearing of the cauſe without conſent of Parties, or their clerkes, or order of Court in that behalfe; and when any of the Examinators hath received an order for publication in a cauſe, he is forthwith to give notice thereof to the other Examinator, to prevent the examining of any more witneſſes in the ſame cauſe. xxviii.

That if a witneſs Summoned to be examined by the Examinator ſhall appear to him to be under age, or not capable to underſtand or anſwer Queſtions, as a witneſs ought to do; the Examinator is not to proceed without advice of the Maſter of the Rowles, or in his abſence of a Maſter of the Court, and if they ſhall judge him fit to be examined xxix.

ned; yet if they pleaſe they may injoyn the party to be preſent in Court upon the hearing.

xxx. That where the Plaintiffe and Defendant joyn in commiſſion for Examination of witneſſes, the Plaintiffe is regularly to have the carriadge of it, but if through his own or his commiſſioners default the ſame be not Executed, he ſhall pay the Defendant ſuch coſts as the Court (being ſatisfied of ſuch default) ſhall think fit, and then may renew his commiſſion by order of Court; at his own charge, and the Plaintiffe to have the like Rule on the like default of the Defendant or his commiſſioners, in caſe he have the carriage therof, and where any Defendant have joyned with a plaintiffe in taking out of a commiſſion, find cauſe to ſuſpect, that the plaintiffe will not have the ſame Executed, the ſaid Defendant upon Affidavit to that effect, may take out a Duplicate thereof, and giving timely notice (as the plaintiffe was to have done) may proſecute the ſame to a due Execution, and return as the plaintiffe ſhould have regularly done.

xxxi That no commiſſion *Ad examinandum teſtes* be Executed in *Dublin*, or within ten miles of it; without ſpeciall order firſt obtained upon Affidavit made of the parties inabili-

ty to travel, or other good matter, & that all Depoſitions taken by commiſſion in *Dublin* or within ten miles thereof, without ſpecial order as aforeſaid ſhall ſtand Superceded and ſuppreſſed *Ipſo facto*, and not allowed to be read as a evidence at the hearing, and the parties who ſhall cauſe the ſame to be Executed ſhall ſuffer ſuch puniſhment for their contempt and Irregularity as the Court ſhall think fit.

That when upon motion on the behalfe xxxii
of either party Plaintiffe or Defendaut the Court doth order that uſe may be made of auy depoſitious formerly taken (in the ſame Court) in another cauſe between the ſame parties (or thoſe under whom they claim) touching the ſame matter in queſtion: It is thereby to be intended that the other party have the ſame benefit of the Depoſitions, and both parties have liberty of their lawfull exceptions at the hearing to any of the ſaid witneſſes ſo formerly examined.

That the Atturney for either party, Plain- xvxiii
tffie or Defendant may in the preſence of the Atturney on the adverſe part, with the Regiſter of the court (without moving the court) ſet down the firſt Rule for publication within four dayes, which four dayes being paſt, and no cauſe ſhewed, the court is to be moved again; and then the court will

give a peremptory Rule without further motion, unleſs good cauſe ſhall be ſhewed to the contrary. Provided that the firſt Rule be given in Term time, or by the firſt Seal after Term.

xxxiv. That if both parties joyn in commiſſion and the one party examine all, and the other not, but prayeth a new commiſſion, it ſhall not be granted, unleſs the other party be content, or upon Oath made of good cauſe why he could not examine all his witneſſes at the Execution of the former commiſſion.

xxxv. That all Proceſs of contempt, writs of *Scire facias* and other proceſs (by which the party is to be Impriſoned, or Seiſure of the Eſtate is to iſſue) are to be made into the county where the party is reſident, unleſs the party proſecuted be in and about *Dublin*, and then it may be made into that place alſo: But upon making it appear that the party cannot be found, or is beyond Sea, the ſame may iſſue into any county where the Eſtate lyeth.

xxxvi. That Attatchment of courſe, and other proceſs of contempt before a Sergant at Arms after due obedience, ſhall be diſcharged upon payment or tende to the clerke on the other ſide of the charge of the proceſs and ten ſhillings beſides, But if the con-

contempt be for not paying of coſts awarded by the Court, he is beſides the ten ſhillings to pay double the coſts of the proceſs before he be diſcharged.

That where the party ſhall be brought in by proceſs or appear gratis to be examined upon contempt, he ſhall give notice of his appearance to the Atturney on the other ſide, and if in four dayes after ſuch notice, and appearance, Interrogatories ſhall not be exhibited, to examine him upon, or if examined and no reference be procured of his examination, nor commiſſion taken out nor witneſſes examined to prove the contempt within four dayes after ſuch examination; the party examined is upon motion to be diſcharged, and coſts taxed, if the Court ſee not good cauſe to detain him, But if after appearance and interrogatories exhibited he ſhall depart before he be examined, without leave of the Court, he is to ſtand committed, and not to be diſcharged till he be examined, and cleared of his contempt, and if found in contempt, to pay coſts, and if cleared ſhall have no coſts, for ſuch his contempt in departing after he had appeared, without leave as aforeſaid. xxxvii.

That on proſecution of a contempt for breach of an order or otherwiſe grounded on an Affidavit, the Interrogatories ſhall not xxxviii.

extend to any matter not comprehended in the order or Affidavit.

xxxix. That where the party examined denies the contempt, the profecutor may of courſe take out his commiſſion to prove it, and in ſuch caſe the party proſecuted may name one commiſſioner to be preſent at the Execution thereof, and croſs examine the witneſſes, but not to examine any of his part without leave of the Court by ſpeciall order; and the Interrogatories on both ſides to be included in the commiſſion.

xl. That in caſe of a contempt proſecuted againſt one, who by reaſon of Age, Sickneſs, or other cauſe is diſabled to travel, or if againſt any that are Servants or Workmen, and live far off, the Court on motion and Affidavit thereof, will grant a commiſſion to examine them in the country, which is to be at the charge of the party deſiring it.

xli. That on Examination of contempts referred to a Maſter, the Maſter in his Report may Aſſeſs, and certifie the coſts to either party for whom he reports without motion or order for the ſame.

xlii. That when Oath ſhall be made of a miſdemeanor in Beating or Abuſing the party upon Service of the Proceſs or order of the Court, the party offending is upon motion to com-

be Committed till the Court ſhall orde upon the nature of the offence to diſcharg^e him, and when Affidavit ſhall be made by two perſons of ſcandalous or contemptuous words againſt the Court, or the proceſs thereof, the perſon offending ſhall likewiſe ſtand committed upon motion without any further examination, and a ſingle Affidavit in ſuch caſe ſhall be ſufficient to ground an Attachment, whereupon ſuch perſon ſhall be brought in to be examined, and if the miſdemeanor ſhall be confeſſed or proved againſt him, he ſhall ſtand committed untill he ſatisfie the Court touching his ſaid miſdemeanor, and pay the proſecutor his coſts, and if he ſhall not be thereof found guilty, ſave by the Oath of the party who made ſuch Affidavit, he ſhall be diſcharged, but without any coſts in reſpect of the Oath made againſt him as aforeſaid.

That no proceſs of Attachment, Procla- xlii
mation, commiſſion of Rebellion or Serjeant at Arms be made returnable out of Term without ſpeciall order of Court (except within the time Limitted for returnes of Subpænas) and not to be made returnable imediate, unleſs to apprehend a perſon living within the county of the City of *Dublin*, or within ten miles of the ſame, and the Sheriffe in ſuch caſe not to be fined

for not returning his writ, till ſix dayes be paſt, after delivery thereof to his hand. And if the ſame iſſue to apprehend a perſon living at a farther diſtance, the Sheriff is not to be fined for not returning the ſame, till eight dayes after the return thereof, and no motin to be made in Court for fineing a Sheriff for not returning his writ, till he hath at leaſt one day before been firſt publickly called on for the ſame in Term time by the Cryer in Court, and no Attachment is to iſſue to the Purſevant without ſpeciall order of Court directing the ſame.

xliiiv. That no Injunction will be granted to ſtay Suites at Law upon priority of Suits onely, nor on the bare Surmiſe in the Bill, but on the Defendants delay or contempt in not appearing or anſwering, or in not perfectly anſwering, and the ſame appearing to the Court, or on matter confeſſed in the anſwer, matter of Record, or writing plainly appearing, or the duty demanded appearing very Antient, or when the Bill is to be relieved againſt a debt ſued for at Law, and it appears the creditor and debtor have been both dead for a conſiderable time before the action brought.

xlv. That where a Bill comes in after a verdict for a debt due on a ſpecialty, an Injunction is not to be granted without depoſiting the prin-

principall money, except there appear to the Court in the Defendants anſwer, or by deed under Hand and Seal or otherwiſe, good matter of releif in equity.

That when an Injunction is granted till anſwer and further order, if no order be made within twelve dayes after the anſwer duly filed in Court, and notice given thereof to the Plaintiffes Atturney, touching the continuance of the Injunction, if the ſame be filed in Term, the ſame is to ſtand diſſolved without motion, but if it be filed in the Vacation, then if an order be not in like manner made, the ſecond publick Seal next after the fileing and notice given thereof as aforeſaid, the ſame is to be diſſolved as aforeſaid. xlvi.

That Injunctions to quiet Poſſeſſions will not be granted before hearing the cauſe but upon Oath made of an actuall poſſeſſion at the time of the Bill exhibited in the plaintiffe, or thoſe under whom he claims, and for the ſpace of three years before, and alſo upon ſatisfaction to the Court out of the Defendants anſwer, or by other good matter that the title of the Plaintiffe is not determined, but no Injunction without ſpecial order and expreſs words, ought to hinder any extent or execution actually upou the Land, or to hinder the Defendants proceedings xlvii

dings at common Law to evict the Plaintiff, nor from making any Leaſe, peacable entry or ſingle diſtreſs for that end.

xlviii. That Injunctions againſt Felling or Barking Tymber, Plowing Meadows, or Antient paſture Grounds, or for maintaining of Antient Incloſures, the ſame being *pro bono publico*, are to be granted as uſually, but if the Defendant have anſwered, and claims an Eſtate of Inheritance to his own uſe, or under ſuch title or Eſtate as is diſpuniſhable of waſt, he is not to be reſtrained.

xlix. That in all caſes of Injunctions if he that obtains the ſame, delay proceedings, or bringing the cauſe to hearing, the Court will take that for a good ground to diſſolve the Injunction.

L. That the Maſters of the Court are not to return ſpeciall certificates unleſs the Court require it, or their own Judgment in reſpect of dificulty lead them to it, and their reports are to be as ſuccinct as may be without needleſs recitals, unleſs in caſe doubtfull they ſhortly repreſent the reaſons inducing them thereunto, and if the Court requires to be ſatisfied touching maters confeſſed or denyed in the defendants anſwer, or in any Examinations, Depoſitions, or other matters referred, the Maſters are to conſider

ſider the whole anſwers Examinations Depoſitions and matters referred and report the ſame to the Court, that they may be ſatisfied whether there be any thing that avoids a confeſſion or ballances the ſame.

That if the Maſter Reports poſitively his certificate is to ſtand and proceſs to iſſue within ſix dayes after Fileing thereof, to enforce performance, unleſs within five dayes after the report Filed, the adverſe party enter exceptions and depoſit the uſual coſts, and then ſuch proceedings are to be made thereupon, as upon exceptions to reports, concerning ſufficient and inſufficient anſwers, and the Maſter is to certifie that both parties were heard or Affidavit made that notice was given of the time and place of the referrence. Li.

The Maſters are to be circumſpect & wary in giving Oaths, that they be Reverently and knowingly given and taken, and are therefore to Adminiſter the ſame themſelves to the party, & where they diſcerne him raſh or ignorant, to give him ſome conſcionable admonition of his Oath, and be ſure he underſtandeth the matter contained in the Affidavit, and read the ſame over or hear it read in his preſence and ſubſcribe his name or marke therennto, before the ſame be certified by the Maſter, who is not to receive Lii.

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ceive or certifie any Affidavit unleſs the ſame be fairly and legibly written, without blotting or enterlining any word of Subſtance.

liii. That every perſon deſiring to ſue *In forma Pauperis* is to have the certificate of ſome Councel, that he hath probable cauſe of Suite, and is to make affidavit that he is not worth five pounds beſides the thing in queſtion, and he is onely to have admittance in one cauſe without ſpecial Order.

liv. He that defends *In forma Pauperis*, is to obſerve the ſaid Rules; onely the certificate of the Councel diſpenced with; upon the parties admittance he is to enter it with the Regiſter.

lv. If any perſon ſue *In forma Pauperis*, and it appear to the Court that he is worth above five pounds beſides the matter in queſtion, or hath ſold or contracted for the benefit of the Suite, or any part thereof, the cauſe is to be diſmiſed and the party to be puniſhed.

lvi. No Proceſs of contempt ſhall be made forth and ſent to the great Seal, at the ſuite of any perſon proſecuting as Plaintiffe *In forma Pauperis*, untill it be ſigned by the clerk that deals for him; and ſuch clerk is to take care that ſuch proceſs be not taken out needleſly, or for vexation, but upon juſt

juſt and good cauſe as they will anſwer it to the Court, if the contrary ſhall apppear.

Councellors and Atturnies are to make motions proper for themſelves, and after a cauſe is ſettled (hearing Council on both ſides) no new motion is to be made to croſs it, except it be upon new matter, & unleſs they be ſure the matter ſo alleadged be weighty and will be well proved, and when any motion is made, the laſt order is alwaies to be produced, and any order obtained without producing the laſt order, to be voyd, and the coſts occaſioned by the neglect to be paid to the party agrieved; and all Affidavits, certificates and reports, to be entered before any motion be made thereupon. lvii.

None but Decretal orders are to be entered after ten dayes, to be Reckoned from the day of the order pronounced, and if the party on whoſe behalf the motion was made, enter not the order in ſix days, the regiſter may enter it at the inſtance of the adverſe party, but in caſe any intricacy appear in any order made upon hearing Council on both ſides, the party in whoſe favour the ſame was made, is to ſhew the ſame to the Council, of the other ſide who is within ſix days after the order ſhew'd him, to give his exceptions to the ſame in writing, or elſs the lviii.

ſaid order is to be entered without further delay.

lix. That no order be binding to either party which is made upon Petitions, in a cauſe depending in Court, and that no extent iſſue upon a Statute acknowledged twenty years before without ſpecial order, nor *Liberate* upon any extent without order, and that the clerk of the Hannaper Seal no ſuch Writ, without having his order for it, ready to be produced.

lx. That all Pleas, Demurrers, and exceptions to reports are to be ſet down to be heard on motion dayes, or on other days after the cauſes appointed for that day and in order as they were moved.

lxi. That at the end of the Term the Regiſter is to move the Court to appoint dayes for the publick Seals as well after the Term as at the beginning of the next Term, as alſo for a day to ſet down cauſes to be heard the next Term, at which time, the ſix clerks are to attend, and all cauſes are to be ſet down regularly according to the time of their Publication, and the ſix clerks is to give a brief accompt of the nature of the cauſe ſo ſet down, and the Regiſter is to take care that the cauſes ſo ſet down, be heard in the ſame order.

lxii. That every decree pronounced by the Lord

Lord Chancellor in any cauſe or order made upon debate or containing any dificulty be openly read in Court by the Regiſter immediately after the pronouncing thereof; for prevention of any miſtakes in the drawing up of the ſame.

That every Subpæna to hear judgement be perſonally ſerved, or leſt at the parties uſual place of reſidence, ten dayes at leaſt before the return thereof, except by the conſent of the Atturneys on both ſides, a ſhorter time be agreed upon, or ſpecial order of Court, and where it ſhall appear by Affidavit that the party to be ſerved hath no certain reſidence, or is beyond the Seas, then the Subpæna left with his Atturney in Court will be a good ſervice. lxiii.

That no cauſe be heard the ſame Term it is publiſhed, without ſpecial order of Court. lxiv.

That where no council appears for the Defendant at the hearing, and proceſs hath been duely ſerved, the Defendants anſwer is to be read, and if the Court upon ſuch hearing ſhall find cauſe to decree for the Plaintiffe, yet the Defendant ſhall have a day to ſhew cauſe againſt the ſame, but before he be admitted, he ſhall pay down ſuch coſts as the Court ſhall order; and the order is to be penned by the Regiſter accord- lxv.

ing

ingly, *viz.* It is decreed ſo and ſo; unleſs the Defendant by ſuch a day, pay the plaintiffe or his Atturney in Court coſts, and ſhew cauſe to the contrary, and bring a certificate from the Plaintiffes Atturney that he hath payed the coſts.

lxvi. That when any decree is pronounced the Regiſter is not to draw up the decretall order, or order of diſmiſſe, and give forth Copies thereof, without firſt ſhewing the draught thereof to the council for whom the decree paſſeth, who finding the ſame agreable to what was pronounced in court is to ſubſcribe his name to the ſaid draught, and ſhew the ſame to the council of the adverſe party, who is likewiſe to ſubſcribe the ſame, or otherwiſe to give his objections in writing under his hand, againſt the ſaid draught, within ſix dayes after the order ſo drawn is ſhewed him, to the end the difference may be determined, but if within that time he doth not give his exceptions in writing, the order is to be entered forthwith, and the decree or diſmiſſe drawn up ſigned and inrolled before the beginning of the next *Michaelmas* or *Eaſter* Term, which ſhall firſt happen next after the ſame ſhall be pronounced, and not afterwards without order of Court.

lxvii That no Decree is to recite the Bill, Anſwer

ſwer, Pleadings, or Depoſitions *in hæc verba*, but onely the ſtate of the matter and proceedings, and the like Succinctneſs is to be uſed in drawing up of an *Executione decreti*.

That no Decree paſs to be grounded on lxviii.
conſent of parties, but upon opening Bill anſwer, and the ſtate of the matter in open Court, and the hands of council on both ſides are alſo to be to the draught of the Decree, and that is to be ſhewed to the Lord Chancellor at the time he ſigns the ſame.

That in all cauſes wherein a Decree or lxix.
diſmiſs is pronounced upon full hearing, if no coſt be aſcertained by the Court, or mentioned at the time of the pronouncing thereof then the party for whom the decree is given may make up his bill of coſts to be taxed of courſe.

That no bill of review is to be admitted lxxx.
except it be for error in Law, apparant in the body of the decree, without either averment or further examination of matter of fact, or except it be upon new matter riſen in time ſince the decree, whereof the party could not before have had advantage which being made appear to the court by affidavit, a bill of review may be exhibited, and in caſe of miſcaſting any ſum, the ſame

appearing demonſtratively to be a miſtake in the Auditing or Numbering, the ſame may be rectified by order, without a bill of review, and in caſe of a bill of review the partie is to enter into Recognizance with ſureties of a fit penalty to anſwer all coſts and damages, if the bill of review be diſmiſſed and perform the decree made againſt him, except the performance of it extinguiſheth the parties right at common Law, as in making of aſſurances or releaſes acknowledgeing ſatisfaction, cancelling of Bonds and Evidences or the like, and in that caſe the Court will diſpence with the performance of that part of the decree.

lxxi. That no cauſes diſmiſſed upon full hearing be retained again, or any new bill admitted but upon new matter appearing by Affidavit as in a bill of review, but otherwiſe in caſe of other diſmiſſions which are not upon hearing the cauſe.

lxxii. That where the Plaintiffe diſcontinues his proſecution after all the defendants that are ſerved, have anſwered, for the ſpace of two whole Terms, the cauſe is to be diſmiſſed by order of courſe, and forty ſhillings coſts for every defendant that anſwered apart which coſt being paid the plaintiffe hath liberty to reply and proceed, or to file a new bill, if he pleaſe, but if the defendant ex-

pe

pect more coſts, he is to move the Court therein, but after replication no cauſe is to be diſmiſſed without order of Court.

That Officers who are paid by the ſheet, be carefull that their copies do contain fifteen lines in every ſheet, and ten words in every line one with the other, and that none of the ſaid Officers, or clerks, do exact greater Fees then are antiently due and accuſtomed. lxxiii.

And laſtly, It is ordered that all Maſters of the Court of Chancery Councillors and all Officers, Miniſters, Clerks and Solicitors in the ſaid Court, do diligently, and carefully obſerve theſe Orders which are to continue untill upon further conſideration and experience, any alteration ſhall be thought fit to be made therein. lxxiv.

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2, *Writts to be fairly entered in a booke and by whom*, pag. 4,
24, *Witneſſes names to be given to the other party before they be examined, and by whom and how long*, pag. 14,
35, *Writts of* Scirefacias &c, *to iſſue to the proper County except the party cannot be found, vide contempt*, pag. 20,

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